

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

F I L E D  
FEB 07 2006

CLERK'S OFFICE  
U.S. DISTRICT COURT  
EASTERN OF MICHIGAN

DAVID TODD INMAN, #287163,

Plaintiff,

v.

CASE NO. 05-CV-74920-DT  
HONORABLE BERNARD A. FRIEDMAN

DOUGLAS VASBINDER, et al.,

Defendants.

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**OPINION AND ORDER DENYING LEAVE TO PROCEED WITHOUT  
PREPAYMENT OF THE FILING FEE AND DISMISSING COMPLAINT**

This matter is before the Court on Plaintiff's *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983. Plaintiff seeks leave to proceed without prepayment of the filing fee for this action. *See* 28 U.S.C. § 1915(a)(1). On January 24, 2006, the Court issued an order requiring Plaintiff to show cause why his complaint should not be dismissed pursuant to the "three strikes" provision of 28 U.S.C. § 1915(g). Plaintiff has filed a response to the Court's order admitting that he should not be allowed to proceed without prepayment of the filing fee because he has three strikes and acknowledging that he is not under imminent danger of serious physical injury. Petitioner requests that his case be dismissed without prejudice.

Under the Prison Litigation Reform Act ("PLRA"), a federal court may dismiss a case if, on three (3) or more previous occasions, a federal court has dismissed the incarcerated plaintiff's action because it was frivolous or malicious or failed to state a claim upon which relief may be granted. *See* 28 U.S.C. § 1915(g). The Court's database reveals that Plaintiff has filed at least three (3) prior cases in the federal courts which have been dismissed as frivolous or for failure to state a claim upon which relief may be granted. *See*:

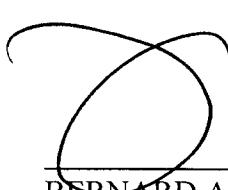
<u>Case No.</u>	<u>Defendant(s)</u>	<u>Dismissal Date</u>	<u>U.S. District Judge</u>
01-CV-00140	MI Parole Bd., et al.	12/07/01	Richard A. Enslen
01-CV-00142	MI Dept. Corr., et al.	12/11/01	Douglas W. Hillman
02-CV-00168	Engler, et al.	01/27/03	Wendell A. Miles

Plaintiff does not challenge the dismissals of these cases, allege that he “is under imminent danger of serious physical injury” so as to fall within the exception to the three strikes provision set forth in 28 U.S.C. § 1915(g), or assert that he should otherwise be allowed to proceed on his complaint without prepayment of the filing fee.

Accordingly, the Court **DENIES** Plaintiff’s application for leave to proceed without prepayment of the filing fee. Plaintiff is not authorized to proceed before this Court without prepayment of the filing fee pursuant to 28 U.S.C. § 1915(g). Additionally, the Court **DISMISSES** Plaintiff’s complaint pursuant to 28 U.S.C. § 1915(g). This dismissal is without prejudice to Plaintiff filing a complaint with payment of the \$250.00 filing fee. The Court notes that any such complaint will be reviewed to determine whether it should be served upon the defendant or should be summarily dismissed under 28 U.S.C. § 1915A(b), which requires the Court to dismiss a complaint brought against governmental entities, officers, and employees if the complaint is “frivolous, malicious, or fails to state a claim upon which relief may be granted.”

**SO ORDERED.**

DATED: FEB - 7 2006



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BERNARD A. FRIEDMAN  
UNITED STATES DISTRICT JUDGE